

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

FREDERICK M. AVILA, SR.,

No. C 06-6913 MHP (pr)

Plaintiff,

**ORDER**

v.

SERGEANT TURNER; et al.,

Defendant.

This pro se prisoner's civil rights action was dismissed without prejudice for failure to exhaust administrative remedies and judgment was entered on May 6, 2008.

Plaintiff filed a "motion to fix and appeal." The court liberally construes the document to be both (a) a notice of appeal and (b) a motion for an extension of time to file that notice of appeal. The motion for an extension of time to file the notice of appeal is GRANTED; the notice of appeal is deemed timely filed. (Docket # 29.) The clerk shall process the appeal.

The other issue raised by plaintiff's motion and a letter he filed on August 18, 2008, is that he is confused about what he should do next. There is nothing further for plaintiff to do in the district court because his action has been dismissed. If he disagrees with this court's ruling on the exhaustion of administrative remedies, the next step for him is to appeal to the U.S. Court of Appeals for the Ninth Circuit. Alternatively, he may want to file another inmate appeal, but that does not look promising as he almost certainly has missed the deadlines for a timely inmate appeal.

IT IS SO ORDERED.

Dated: October 10, 2008

  
Marilyn Hall Patel  
United States District Judge